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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,490	04/15/2005	Christophe Fichot	NITROF P61AUS	8718
20210	7590	08/02/2006	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/531,490	FICHOT ET AL.	
	Examiner	Art Unit	
	David J. Parsley	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4-15-05</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Preliminary Amendment

1. Entry of applicant's preliminary amendment dated 4-15-05 into the application file is acknowledged.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains implied statements in lines 1, 4 and 10. Correction is required. See MPEP § 608.01(b).

4. The use of the trademarks KEVLAR, GLOCK and PARKER has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “particularly” in line 1 renders the claim indefinite in that it is unclear to what other types of firearms the ammunition projectile is to be used with.

Claim Rejections - 35 USC § 102

Art Unit: 3643

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

5,133,261 to Kelsey.

Referring to claim 14, Kelsey discloses an ammunition projectile for a firearm, particularly a handgun, the projectile comprising a nose – at 14,15,17,20,21,22, and a cap – at 12,16, the nose is essentially conical in shape – see figures 1-2a, and comprises at least two hollow areas – at 17, disposed essentially symmetrically in relation to one of an axis o the projectile or an axial plane – see figures 1-2a, the hollow areas being curved from a first edge to a second edge – see at 17,20,24,25,26 in figures 1-2a.

Referring to claim 15, Kelsey discloses a base of the hollow areas is rounded – see at 17,20,24,25,26 in figures 1-2a.

Referring to claim 16, Kelsey discloses the hollow areas are formed of two curvilinear planes whose intersection is defined by a radial ridge – see at 15,24 in figures 1-2a.

Referring to claim 17, Kelsey discloses the nose comprises a flat central portion – see at 15,19,24 in figures 1-2a.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3643

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey as applied to claim 17 above. Kelsey further discloses a diameter of the flat central portion is smaller than the diameter of the projectile at a base of the nose – see figures 1-2a. Kelsey does not disclose a diameter of the flat central portion generally ranges from 10 to 50% of a diameter of the projectile at a base of the nose and preferably from one fourth to one third of the diameter of the projectile. However, applicant does not disclose that the diameter of the flat central portion is from 10 to 50% of the diameter of the projectile at a base of the nose is critical to the operation of the invention. Therefore, it is deemed that the device of Kelsey is capable of operating with the diameter of the flat central portion being from 10 to 50% of the diameter of the projectile at a base of the nose and it would have been obvious to one of ordinary skill in the art to take the device of Kelsey and add the diameter of the flat central portion being from 10 to 50% of the diameter of the projectile at a base of the nose, so as to allow for the device to be made more aerodynamic to improve the flight characteristics of the device.

Claims 19-20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey as applied to claim 14 above, and further in view of U.S. Patent No. 4,450,769 to Moser.

Referring to claim 19, Kelsey does not disclose the nose and the cap comprise a cavity. Moser does disclose the nose and the cap comprise a cavity – see at 17-19 in the drawing figure. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kelsey and add the cavity in the nose and cap of Moser, so as to allow for the center of gravity of the device to be modified.

Referring to claim 20, Kelsey as modified by Moser further discloses the cavity is designed to receive a blocking means – at 19 and/or 20 – see the drawing figure.

Referring to claim 25, Kelsey as modified by Moser further discloses the cavity comprises a central zone – see the interior at 17-19 in the drawing figure, that is at least partially threaded – see at 17, and the blocking means is a bolt – at 19 or 20, partially engaged in the central zone – see the drawing figure.

Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey as applied to claim 14 above, and further in view of U.S. Patent No. 5,259,320 to Brooks.

Referring to claims 21-22, Kelsey does not disclose the projectile is made of a soft metal being copper. Brooks does disclose the projectile is made of copper – see column 6 lines 1-17. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kelsey and add the projectile made of copper of Brooks, so as to allow for the device to be easily manufactured and machined.

Claims 23-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey as modified by Moser as applied to claim 20 above. Kelsey as modified by Moser does not disclose the blocking means is made of a hard metal being steel. However, applicant does not disclose that the blocking means being made of steel is critical to the operation of the invention and it is deemed that the device of Kelsey as modified Moser is capable of operating with the blocking means made of steel. Therefore it would have been obvious to one of ordinary skill in the art to take the device Kelsey as modified by Moser and add the blocking means being made of steel, so as to allow for the device to be made more durable.

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Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey as applied to claim 14 above, and further in view of U.S. Patent No. 5,385,100 to Corzine et al. Kelsey does not disclose the projectile is made of brass. Corzine et al. does disclose the projectile is made of brass – see column 5 lines 41-50. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kelsey and add the projectile made of brass of Corzine et al., so as to allow for the device to be easily manufactured and made more durable.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to ammunition projectiles in general:

U.S. Pat. No. 3,572,250 to Kriesel et al. – shows projectile with hollow areas

U.S. Pa. No. 3,580,179 to Gawlick – shows projectile with hollow areas

U.S. Pat. No. 3,949,677 to Voss – shows projectile with hollow areas

U.S. Pat. No. 4,616,568 to Serge – shows projectile with hollow areas

U.S. Pat. No. 4,867,065 to Kaltmann et al. – shows projectile with hollow areas

U.S. Pat. No. 5,027,711 to Schleicher et al. – shows projectile with hollow areas

U.S. Pat. No. 6,182,574 to Giannoni – shows projectile with hollow areas

U.S. Pat. No. 6,223,657 to Proffitt – shows projectile with threaded bore

U.S. Pat. No. 6,244,186 to Pichard – shows projectile with hollow areas

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Parsley
Patent Examiner
Art Unit 3643